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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,484	07/16/2003	Stan E. Leigh	200312110-1	2585

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EXAMINER

VORTMAN, ANATOLY

ART UNIT PAPER NUMBER

2835

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/621,484

Applicant(s)

LEIGH ET AL.

Examiner

Anatoly Vortman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,5-11 and 25-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25-35 is/are allowed.
- 6) ☒ Claim(s) 1,6 and 11 is/are rejected.
- 7) ☒ Claim(s) 5 and 7-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/23/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Amendment*

1. The submission of the amendment filed on 02/22/05 is acknowledged. At this point the subject matters of claims 1, 11, 25, and 32 have been amended and dependencies of claims 5-11 have been changed. Claims 2-4, 12-24, and 36-37 have been cancelled. Thus, claims 1, 5-11, and 25-35 are pending in the instant application.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 6, are rejected under 35 U.S.C. 102(b) as being clearly anticipated by US/4,331,947 to Noerholm (of record).

Regarding claims 1 and 6, Noerholm disclosed (Fig. 7) a fuse structure comprising: a laminate comprising a first layer (14, 15) and a second layer (13), said first layer (14, 15) having a lower electrical resistance than said second layer (13) (column 3, lines 43, 44), wherein said second layer (13) comprises: a first region adapted to be coupled to a voltage source; a second region adapted to be coupled to a ground; and a current flow region (16) disposed between said

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first and second regions, wherein said current flow region (16) is uncurved between said first and second regions and wherein said current flow region (16) defines a symmetrical in shape recess (17) in the plane of said second layer (the recess is formed by partial holes (17) on either side of the current flow region), said recess (17) extending from one side of said current flow region (16) into said current flow region (16).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Noerholm ('947) taken alone.

Regarding claim 11, Noerholm disclosed all, but that said fuse structure is one of a plurality of fuse structures.

It would have been obvious for a person of ordinary skill in the fuse art at the time the invention was made to use the plurality of the fuse structures of Noerholm so as to satisfy a particular application, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

The functional recitation of claim 11 directed to the way of using the device, i.e. that "information is encoded by said fuse structures according to which ones of said fuse structures

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are blown” has not been given patentable weight, since it narrative in form. In order to be given patentable weight, a functional recitation must be expressed as a "means" for performing the specified function, as set forth in 35 USC § 112, 6th paragraph, or must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language.

*In re Fuller*, 1929 C.D. 172; 388 O.G. 279.

Also, the it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

#### ***Allowable Subject Matter***

6. Claims 25-35 are allowed.

7. Claims 5 and 7-11, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 5, the claim recites: “recess extends approximately halfway across...current flow region”;

Regarding claim 7, the claim recites: “recess is substantially triangular in shape”;

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Regarding claim 8, the claim recites: “recess is substantially trapezoidal in shape”;

Regarding claims 9, 10, and 25-35, the claims 9, 10, 25, and 32, recite: “a substantially straight edge”.

The aforementioned limitations in combination with all remaining limitations of the respective claims, are believed to render said claims 9, 10, 25, and 32 and all claims dependent therefrom patentable over the art of record.

### ***Response to Arguments***

9. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anatoly Vortman whose telephone number is 571-272-2047. The examiner can normally be reached on Monday-Friday, between 10:00 am and 6:30 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Lynn Feild can be reached on 571-272-2092. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AV

A handwritten signature in black ink, appearing to read 'A. Vortman', with a long horizontal stroke extending to the right.

Anatoly Vortman  
Primary Examiner  
Art Unit 2835